IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

REVIEW PETITION STAMP NO.14819 OF 2007
IN
WRIT PETITION NO.2228 OF 2007
WITH

REVIEW PETITION STAMP NO.14815 OF 2007
IN
WRIT PETITION NO.2726 OF 2007
WITH

REVIEW PETITION STAMP NO.14821 OF 2007
IN
WRIT PETITION NO.2763 OF 2007

K.J. Somaiya Medical College &
Research Centre & Anr. ..Applicants

Vs.

Maharashtara University of
Health Science & Ors. ..Respondents

Shri S.U. Kamdar, Senior Counsel with Mr. K.K. Jadhav, for the Applicants.
Shri R.V. Govilkar, for Respondent Nos. 1 and 2.
Shri N.M. Ganguli for Respondent No.5.
Shri A.H. Palekar, AGP for Respondent No.6.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.
DATED : 11TH OCTOBER 2007

P.C.

. Applicants have approached this Court for review of the order dated 17th April, 2007, whereby three petitions filed by the Original Petitioner were disposed of by a common order dated 17th April, 2007. The following order was passed:-

"It will be open to the petitioners to make a fresh recommendation to the Respondent No.3 pointing out that the concerned teacher were appointed much before

Regulations came into force and they have been teaching in the medical college since the year 1991-92, 1992-93 and that the Regulations of 1998 would not apply to them. If inspite of that the Medical Council does not recognise or consider the same, it is for the petitioners to approach Court to seek appropriate relief."

2. The concerned teachers were working with the Review Applicants from the date as set out in para.2 of our order dated 17th April, 2007. The College was first affiliated to the Bombay University. It was only disaaffiliated in 1998 and affiliated to the Maharashtra University of Health Science on its establishment. We have noted in our order that the Regulation came to be framed in the year 1998. The Medical Council of India by their communication addressed to the Review Applicant dated 16th June, 2006 informed the Applicant as under:-

However, as per The MCI's inspection and in The Medical Council of India memorandum, qualification for the Teacher in Medical Institution/Regulations, 1998 (hereinafter referred to as ("The Regulation") you are not qualified and do not possess the required qualification as approved b The MCI and under The Regulation. The required qualification is M.Sc. (Medical Biochemistry) and therefore you do not possess the requisite qualification as per the requirement of The MCI norms."

Based on this letter the services of the teachers came to be terminated. Aggrieved teachers approached the Grievance Committee. The Grievance Committee by the impugned order dated 9th May, 2006 in the main petition directed that the Teachers who were before it be reinstated and the said decision had been approved by the Management Council in its meeting held on 5th April, 2006. As the decision of the Grievance Committee was not being implemented the University from time to time addressed communications to the Applicants herein threatening action. The Review Applicants thereafter filed the Petition before this Court which came to be dismissed by the order which is the subject matter of the present Review Applicants.

3. It is the contention of the Review Applicants that the concerned teachers were not eligible from the beginning itself and consequently the issue of reinstating the teachers would not arise. As we have noted earlier the services of the teachers were terminated only on the ground that they did not meet with the qualification as provided in the Regulations of 1998. In the order we have held that they were appointed before those Regulations came into force and those regulations would not apply to their appointments. The Medical Council of India did not issue direction to the petitioners to terminate the services for violation of any other regulations. That was the issue being considered by the Grievance Committee. This Court was examining the order of Grievance Committee and its legality in the context of the direction issued by the Medical Council of India.

4. The grievance, therefore, alleged on behalf of the Applicants that the appointment of the concerned teachers was ab initio void would not arise for consideration as the action of the Review Applicants in terminating the services of the teachers was to comply with the directions issued by the Medical Council of India.

5. Considering the above, in our opinion the impugned order would not disclose any error of law apparent on the face of the record warranting our interference in Review jurisdiction. Hence Review Petitions dismissed.

(J.P. DEVADHAR, J.) **(F.I. REBELLO, J)**